

## **Transportation Commission Special Meeting Agenda**

December 20, 2018  
Special Meeting Schedule & Agenda  
2829 W. Howard Place  
Denver, Colorado 80204

Shannon Gifford, Chairwoman  
Denver, District 1

Ed Peterson  
Lakewood, District 2  
Jesus Pulido  
Lone Tree, District 3  
Karen Stuart  
Broomfield, District 4  
Kathleen Gilliland  
Livermore, District 5  
Kathy Connell  
Steamboat Springs, District 6

Kathy Hall  
Grand Junction, District 7  
Sidny Zink  
Durango, District 8  
Rocky Scott  
Colorado Springs, District 9  
William Thiebaut, Vice Chairman  
Pueblo, District 10  
Steven Hofmeister  
Haxtun, District 11

### **THE CHAIRWOMAN MAY ALTER THE ITEM SEQUENCE OR TIMES**

*Room 105, T-Rex Conference Room, 2829 W. Howard Place*

The times indicated for each topic on the Commission agenda are an estimate and subject to change. Generally, upon the completion of each agenda item, the Commission will immediately move to the next item. However, the order of agenda items is tentative and, when necessary to accommodate the public or the Commission's schedules, the order of the agenda items are subject to change.

Documents posted at <http://www.coloradodot.info/about/transportation-commission/meeting-agenda.html> no less than 24 hours prior to the meeting. The documents are in draft form and for information only until the Commission takes final action.

### **TRANSPORTATION COMMISSION SPECIAL MEETING**

Thursday, December 20, 2018

- 4:00 p.m. 1. Call to Order, Roll Call
- 4:05 p.m. 2. Audience Participation; Subject Limit: 10 minutes; Time Limit: 3 minutes
- 4:15 p.m. 3. Briefing regarding Central 70 Lawsuit Settlement (Keith Stefanik & David Spector)
- 4:25 p.m. 4. Discuss and Act on Resolution to Approve Central 70 Lawsuit Settlement (Keith Stefanik & David Spector)
- 4:30 p.m. 5. Adjournment

## **Resolution # TC-18-X-X**

### **Approving the Central 70 Litigation Settlement Agreement.**

**WHEREAS**, the Transportation Commission is responsible, pursuant to Section 43-1-106(8)(a), C.R.S., for formulating the general policy with respect to the management, construction and maintenance of public highways and other transportation systems in the State; and

**WHEREAS**, the Sierra Club, Elyria and Swansea Neighborhood Association, Chaffee Park Neighborhood Association, and Colorado Latino Forum (individually, “Petitioner” and collectively, “Petitioners”) filed a civil legal action in the United States District Court for the District of Colorado (the “Court”) seeking review of the Record of Decision (“ROD”) issued by the U.S. Department of Transportation, Federal Highway Administration, on January 19, 2017, approving and authorizing federal funding to expand Interstate 70 in Denver, Colorado (the “Central 70 Project”); and

**WHEREAS**, Petitioners originally named the Federal Highway Administration, Secretary of Transportation Elaine Chao, and Federal Highway Administration Division Administrator John Cater (collectively, “Federal Defendants”) as defendants in the legal action; and

**WHEREAS**, CDOT and CDOT’s Executive Director (together, “CDOT”) moved to intervene in the legal action, which motion was granted by the Court on September 11, 2017; and

**WHEREAS**, CDOT and the Federal Defendants (collectively, “Defendants”) have defended this case and maintain that there have been no violations of federal law associated with the Central 70 Project or its approval; and

**WHEREAS**, Petitioners and CDOT, seeking to avoid additional time and expense of continuing litigation and to forge a permanent resolution of Petitioners’ existing and future claims regarding the legal sufficiency of the ROD approving the Central 70 Project, have agreed on settlement terms that include a health study, air monitoring and landscaping (“Settlement Agreement”); and

**WHEREAS**, the Transportation Commission has been provided a copy of the Settlement Agreement and CDOT and High Performance Transportation Enterprise (“HPTE”) staff have briefed the Transportation Commission on the terms and benefits of the Settlement Agreement; and

**WHEREAS**, neither Petitioners nor CDOT have admitted, or admit in the Settlement Agreement, any allegation or contention of any opposing party in the civil legal action; and

**WHEREAS**, all of the Petitioners must approve and sign the Settlement Agreement and the Settlement Agreement will not take effect until it is fully executed; and

**WHEREAS**, it is agreed upon and intended that the Settlement Agreement, if fully executed, constitutes a final and complete resolution of Petitioners’ civil action in *Sierra Club et al. v. Chao, et al.* (D. Colo. No. 17-1679); and

**WHEREAS**, CDOT will pay its required monetary portion of the Settlement Agreement out of current approved Central 70 Project contingency funds and no additional funds are required.

**NOW THEREFORE BE IT RESOLVED**, the Transportation Commission hereby approves the Central 70 Litigation Settlement Agreement between CDOT and the Sierra Club, Elyria and Swansea Neighborhood Association, Chaffee Park Neighborhood Association, and Colorado Latino Forum and authorizes CDOT’s Executive Director or his designee to execute the Settlement on behalf of CDOT, in substantially the form presented to the Transportation Commission prior to the

meeting at which this Resolution is adopted, with such changes thereto as may be approved by both the CDOT Executive Director, or his designee, and the office of the Colorado Attorney General, provided that such changes shall not materially and substantially alter the terms and conditions of such agreement presented to the Transportation Commission, nor otherwise be inconsistent with this Resolution.

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Herman Stockinger, Secretary

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Date

Transportation Commission of Colorado